

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

PREPARED BY: Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

SUBJECT: October 15, 2008 minutes

AFFECTED DISTRICT: n/a

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: October 15, 2008 (Regular Meeting)

REPORT IN BRIEF: Council minutes from the October 15, 2008 Council meeting.

PREVIOUS ACTIONS: n/a

CONCURRENCES: n/a

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Motion to approve

Attachment(s): October 15, 2008 minutes

**TOWN OF DAVIE
REGULAR MEETING
OCTOBER 15, 2008**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:33 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Luis, Councilmembers Caletka, Crowley and Starkey. Also present were Town Administrator Shimun, Town Attorney Rayson, and Town Clerk Muniz recording the meeting.

3. PRESENTATIONS

3.1 Florida Recreation Development Assistance Program -Senator Geller

State Senator Steve Geller presented two checks from the Florida Recreation Development Assistance Program. The first was for \$135,610.84 for the Sunny Lake Bird Sanctuary improvements and the second was for \$84,756.78 for improvements to Liberty Park.

3.2 Representative Kendrick Meek - The Land Trust Alliance

No presentation was made.

3.3 Community Housing and Development Director Shirley Taylor-Prakelt - Florida Housing Coalition

Ida Andujar, representing the Florida Housing Coalition, described the Coalition's work and presented Ms. Taylor-Prakelt with an award for her outstanding work as a public servant. Ms. Taylor-Prakelt accepted the award and thanked the Housing Coalition, Jamie Ross and Ms. Andujar.

Mayor Truex read a letter from Florida Community Development Association and presented a plaque to Ms. Taylor-Prakelt on the organization's behalf.

3.4 2007-08 Sunshine State Conference Mayors' Cup - Nova Southeastern University Athletics Department

George Hanbury, Executive Vice President of NSU, introduced Michael Mominey, Athletic Director, who gave a brief history of the Mayor's Cup. Mr. Mominey presented the Mayor's Cup to Mayor Truex and Council.

Vice-Mayor Luis made a motion, seconded by Councilmember Starkey, to table item 4.19 to November 5, 2008. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that the petitioner had requested tabling item 6.3.

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis to table item 6.3 to November 5, 2008.

Vice-Mayor Luis explained that the petitioner wished to do some additional research and was not present. Mr. Rayson added that a tabling was usually granted as a

courtesy when there was a prior request. Mayor Truex asked Vice-Mayor Luis to withdraw his motion; however, Vice-Mayor Luis did not want to hear the item in the absence of the petitioner. Councilmember Caletka agreed that the petitioner should be present in order to get both sides of the argument and Councilmember Starkey agreed. Councilmember Crowley noted that many residents were in attendance regarding this item and felt that the item should be heard.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - no; Councilmember Starkey - yes. (Motion carried 3-2)

Mayor Truex advised that the petitioner had requested that item 6.6 be tabled.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table item 6.6 until December 3, 2008. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that item 8.3 Discussion of Green Community Bus Route, needed to be added to the Agenda.

Councilmember Starkey made a motion, seconded by Mayor Truex, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1 September 17, 2008 (Workshop Meeting)
- 4.2 September 17, 2008 (Regular Meeting)

Parade Permit

- 4.3 Forest Ridge Holly Day Parade Committee (December 6, 2008)

Proclamations

- 4.4 Congratulations Proclamation to Braulio Rosa
- 4.5 Dr. Fred Lippman Day (October 16, 2008)

Business Tax Licenses

- 4.6 Jet Pavement Maintenance Inc., 14451 SW 24 Street
- 4.7 L'Image Rehabilitation Inc., 5741 SW 109 Avenue

Resolutions

- 4.8 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE BIDS AWARDED BY THE STATE OF FLORIDA AND THE FLORIDA SHERIFF'S ASSOCIATION FOR AUTOMOBILES, TRUCKS, AND HEAVY EQUIPMENT. (\$1,300,000)
- 4.9 **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS IN THE AMOUNT \$143,809 FOR

THE PURCHASE OF HARDWARE AND SOFTWARE FROM SIMPLEXGRINNELL FOR A CLOSED-CIRCUIT TELEVISION SECURITY SYSTEM FOR THE TOWN OF DAVIE POLICE DEPARTMENT.

- 4.10 **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS IN THE AMOUNT \$54,465 FOR THE PURCHASE OF SOFTWARE, HARDWARE AND NETWORKING COSTS FOR AN AUTOMATED SCHEDULING AND STAFFING DATABASE MANAGEMENT SYSTEM FOR THE TOWN OF DAVIE POLICE DEPARTMENT.
- 4.11 **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER #4 WITH AWL PHASE ENTERPRISES, INC. TO CHANGE THE CONTRACTED SCOPE OF WORK AT NEIGHBORHOOD SERVICE CENTER IN DISTRICT 2. (\$11,660.00)
- 4.12 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE TEAM OF METCALF & EDDY/AECOM TO PROVIDE DESIGN/BUILD SERVICES FOR WATER AND WASTEWATER SYSTEM EXPANSIONS AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.13 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN FPL AND THE TOWN OF DAVIE FOR AN ENERGY AND MAINTENANCE AGREEMENT FOR FIVE (5) STREET LIGHTS ALONG HIATUS ROAD BETWEEN SW 26TH STREET AND SW 23RD STREET. (not budgeted - \$253.20/year)
- 4.14 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN FPL AND THE TOWN OF DAVIE FOR AN ENERGY AND MAINTENANCE AGREEMENT FOR SIXTY-NINE (69) STREET LIGHTS IN THE PINE ISLAND RIDGE SUBDIVISION ALONG ORANGE GROVE DRIVE AND PINE ISLAND RIDGE DRIVE. (\$895/month)
- 4.15 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE COMMUNITY PARTNER MEMORANDUM OF AGREEMENT BETWEEN THE FEDERAL EMERGENCY MANAGEMENT

AGENCY (FEMA) AND THE TOWN OF DAVIE TO PRODUCE UPDATE DIGITAL FLOOD MAPS FOR THE TOWN OF DAVIE; AND PROVIDING FOR AN EFFECTIVE DATE

- 4.16 **INSURANCE** - A RESOLUTION OF THE TOWN OF DAVIE TO APPROVE THE SELECTED CARRIERS TO PROVIDE HEALTH, DENTAL, LONG TERM DISABILITY, SHORT TERM DISABILITY AND LIFE INSURANCE, TO AUTHORIZE THE HUMAN RESOURCES DIRECTOR TO EXECUTE APPROPRIATE APPLICATIONS AND CONTRACTS FOR SAID BENEFITS, AND TO PROVIDE FOR AN EFFECTIVE DATE.
- 4.17 **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE EXTENSION OF THE EXISTING CONTRACT FOR LAWN MAINTENANCE FOR DAVIE/COOPER CITY CHAMBER OF COMMERCE-TOWN OF DAVIE PARKING LOT BETWEEN THE DAVIE COMMUNITY REDEVELOPMENT AGENCY AND ALVAREZ LANDSCAPING GROUP, INC., AUTHORIZING THE MAYOR TO EXECUTE THE RESOLUTION AND PROVIDING FOR AN EFFECTIVE DATE. (\$5,620/year)
- 4.18 **EASEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST TO REMOVE AN EXISTING 15 FOOT DRAINAGE EASEMENT ALONG THE SOUTHERN PROPERTY LINE ON THE PLAT KNOWN AS “GRIFFIN 78”, AND PROVIDING AN EFFECTIVE DATE. (DG 2-2-08, Griffin 78 Plat)

Quasi-Judicial Consent Agenda

- 4.19 SP 6-9-06, West Oak Estates, 1900 SW 145 Avenue(R-1) (tabled from August 20, 2008) *Site Plan Committee recommended approval based on the “Planning Department comments” and the following: to delete the Pigeon Plum trees and replace them with Live Oak 14- to 16-foot; substitute Silver Buttonwood shrubs with Green Buttonwood shrubs; in the cul-de-sac circle, install one 20-foot Oak with ferns below so there would be no sod; on the specified light fixture, they are to be replaced with fixtures that are compatible with the rural lifestyle ordinance and could be similar to the FPL colonial style as long as the light does not shine upward; and that the roads, sidewalks, swales and street trees would all be installed before the first Certificate of Occupancy*

Mayor Truex pulled items 4.4, 4.9 and 4.10 from the Consent Agenda. Councilmember Starkey pulled items 4.3 and 4.8. Councilmember Caletka pulled item 4.11. Councilmember Crowley pulled item 4.16.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve the Consent Agenda less items 4.3, 4.4, 4.8, 4.9, 4.10, 4.11 and 4.16. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.3 Councilmember Starkey announced that the Forest Ridge Holly Day Parade would be held again this year and was open to the entire community. The date for the parade was December 6th at 1 p.m.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.4 Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex read the proclamation, congratulated Mr. Rosa, and declared the day a holiday.

4.8 Councilmember Starkey was concerned that when the Town received the check from the Property Appraiser's Office, it would fall short of their expectations. She wanted to approve part of the bid and return to it after the mid-year assessment in January. Budget & Finance Director Bill Ackerman stated that the Town would collect the property tax funds, which could be delayed in the process or become delinquent, but the Town would ultimately recover the funds.

Mr. Ackerman explained the process for reviewing and assessing the vehicles. He informed Council that staff did not plan to reach the total amount specified, but approval of this item would allow them to evaluate needs and to plan purchases. Mr. Ackerman reminded Council that the funds came from the Vehicle Maintenance Fund so there was no direct impact on the General Fund.

Councilmember Starkey was concerned that beyond 2008, the Town would not have a lot of money, and felt they must approach this more conservatively. Councilmember Caletka agreed they must be very cautious regarding the budget, but did not want to limit their ability to replace vehicles. Councilmember Crowley did not object to the resolution, trusting that the vehicle purchases were made very responsibly and reasonably. Mayor Truex appreciated Councilmember Starkey's comments, but supported this and noted that it would be monitored.

Councilmember Crowley made a motion, seconded by Councilmember Caletka, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.9 Mayor Truex requested that in the future, an explanation be included in the backup for items that were not being bid out.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.10 Councilmember Starkey made a motion, seconded by Vice-Mayor Luis, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.11 Councilmember Caletka explained that he always voted against change orders, so he would oppose this item.

Public Works Director Manny Diez informed Council that this was for the addition of water fountains in Ms. Taylor-Prakelt's building, which was currently undergoing renovation. He explained that the fountains had been left out of the plans. Mr. Diez stated that the renovation costs had come in considerably lower than budgeted, so this request would not come out of the General Fund.

Councilmember Starkey pointed out that this was the third change order on the project. She explained that the water fountains were needed to comply with grant funding requirements.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve.

Councilmember Caletka recommended that staff keep track of architecture firms whose plans consistently required change orders.

In a voice vote, with Councilmember Caletka and Councilmember Crowley dissenting, all voted in favor. (Motion carried 3-2)

4.16 Councilmember Crowley did not favor this resolution because he had a "personal issue" with United. Councilmember Starkey remarked that she had experienced problems with United as well.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve.

Councilmember Crowley suggested amending the motion to include that an RFP for health insurance would be issued next year. Councilmember Starkey and Mayor Truex agreed to this amendment.

In a voice vote, all voted in favor. (Motion carried 5-0)

6. PUBLIC HEARING

Resolution

6.1 CAPITAL PROJECTS AMENDMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CAPITAL PROJECTS PROGRAM FOR THE TOWN OF DAVIE FOR FISCAL YEARS 2008-2012.

Mr. Rayson read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Planning & Zoning Manager David Quigley explained that this was being amended because of the issues staff had experienced with the Department of Community Affairs regarding financially feasible projects.

Vice-Mayor Luis made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Ordinance - Second and Final Reading

6.2 CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE II TO CHAPTER 18 OF THE TOWN CODE ENTITLED "MOTOR VEHICLE ACCIDENT AND INCIDENT FEES"; AUTHORIZING THE TOWN TO IMPOSE

SERVICE FEES OR CHARGES FOR THE DEPLOYMENT OF PUBLIC SAFETY SERVICES RENDERED BY THE TOWN OF DAVIE FOR MOTOR VEHICLE ACCIDENTS AND INCIDENTS; PROVIDING THAT SUCH FEES AND CHARGES SHALL BE ESTABLISHED OR MODIFIED FROM TIME TO TIME BY RESOLUTION OF THE TOWN COUNCIL; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; INCORPORATION INTO THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from October 1, 2008) **{Approved on First Reading September 17, 2008. The vote was as follows: Mayor Truex - no; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes}** [see related item 8.2]

Mr. Rayson read the ordinance by title.

Councilmember Starkey requested to see staff's presentation on this item. Fire Chief John Montopoli gave a presentation explaining why the Town should approve the proposed Code amendment, highlighting the following points: 1) the majority of services were outside the scope of fire and criminal protection investigations; 2) significant numbers of non-taxpayers caused local taxpayers to subsidize service for which they received no benefit; 3) the fee followed existing federal mandates; and 4) response to traffic incidents detracted from police and fire resources available to residents.

Councilmember Starkey explained that the Broward County Fire Council was considering a mandate from Broward County for unified communications and a reimbursement procedure for major incidents. She believed this made sense for every city. Councilmember Starkey stated that the intent of the amendment was not to double-tax or to provide additional revenue, but to provide the best possible service to residents and visitors.

Mr. Rayson explained that the legal aspects had been thoroughly researched and addressed. In his legal opinion, the fee was valid and enforceable.

Mayor Truex opened the public hearing portion of the meeting.

Raymond Baechle was opposed to the ordinance because he believed it would cause an increase in insurance premiums. He wondered what would come next: a charge for police to respond to residents' homes? Mr. Baechle had read that if fault could not be determined for an accident, both parties would be charged the fee. He also feared this would cause people to avoid visiting or doing business in the Town of Davie.

As no one else spoke, Mayor Truex closed the public hearing portion of the meeting.

Mr. Rayson confirmed that if fault were not determined, both insurance companies would be charged the fee. Drivers lacking insurance would be charged individually.

Councilmember Crowley referred to a serious accident on I-595 a few years ago and asked about the cost of the Town's resources spent to deal with that accident. Chief Montopoli could not estimate the costs to the Town, but Councilmember Starkey stated

that the previous fire chief estimated it had cost the Town “several hundred thousand dollars.”

Councilmember Crowley wondered why the Florida Fire Chiefs Association did not support this, as the Florida Police Chiefs Association had.

Mayor Truex said this was “an awful idea” and agreed with those who felt this was a new tax for basic government services. He believed this “bad idea is going to spread like cancer” and the impact of many municipalities’ charging this fee would drive up the cost of insurance. Mayor Truex said he had supported this when it would be applied to only major wrecks on major roads but he was against imposing the fee for any wreck on any road. He added that the residents he had heard from were not in favor of this.

Councilmember Caletka stated that he had voted against this four times already. He also believed that this would ultimately drive up the cost of insurance.

Vice-Mayor Luis stated that residents would pay a higher fire assessment fee if this fee were not instituted. He agreed with Mayor Truex that it should apply only to major wrecks on major roads.

Mr. Shimun pointed out that the ordinance was the enabling legislation to allow the Town to implement the program. He added that Council could determine fee structures and conditions by resolution later.

Councilmember Starkey felt this was not a tax, but a user fee and said she would not disagree with tabling this again to improve the ordinance’s transparency and to better inform the residents about it. She added that if Council did not approve it, fire personnel must be laid off since this revenue had been included in the budget.

Councilmember Starkey reminded Council that they had originally opposed recovery fees for Building and Development Services, which she had been in favor of a few years ago. However, once the details were explained, Council, staff and the development community were all in favor.

Mr. Shimun reiterated that the resolution could be structured to apply only to the major arteries. Mayor Truex recommended that Council deny this ordinance and create a new one that specified the fee only applied to major arteries.

Mr. Rayson stated they did not want an ordinance that was so specialized that it would violate equal protection. He believed the ordinance as written could withstand legal challenge, but a more specific ordinance would put the Town in a more difficult situation.

Councilmember Crowley agreed that the ordinance should specify that the fee would apply to incidents occurring only on I-595, I-95, I-75 and the Florida Turnpike. If it applied to any more than these, he would not support it.

Councilmember Caletka was concerned that Council had put the cart before the horse by including \$690,000 in potential fee revenue in the budget. He feared that if they did not approve this ordinance, there would be job losses in the Fire Department or there must be offsets in other departments. Councilmember Caletka stated that in the future, he would never approve anything for which there was no existing revenue stream.

Vice-Mayor Luis also wanted to remove the provision that allowed for both parties to be charged if fault could not be determined.

Councilmember Starkey asked if Councilmember Crowley would be willing to move forward with the ordinance if the changes he and Vice-Mayor Luis suggested were made. Mayor Truex remarked that the ordinance was flawed and should be re-written.

Mr. Shimun said he and Mr. Ackerman would get with Council to determine “what programs and services we’ll cut to make up the difference in the dollar amount.” Mayor Truex agreed that the budget must be adjusted. Mr. Shimun indicated that the cuts would be employees. Mayor Truex was not sure if this was true but reiterated that the budget would have to be adjusted.

Councilmember Caletka made a motion, seconded by Mayor Truex, to deny.

Councilmember Crowley wanted to direct Mr. Rayson to revise the ordinance to include the suggestions made by Council this evening. He suggested Council table the item instead of voting to deny it.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - no; Councilmember Caletka - yes; Councilmember Crowley - no; Councilmember Starkey - no. (Motion failed 2-3)

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to table to the next meeting [November 5, 2008] to allow Mr. Rayson to work with staff to revise the ordinance based upon Council’s comments and direction this evening.

Vice-Mayor Luis, Councilmember Crowley and Councilmember Starkey stated that they wanted the ordinance to specify that the fee would only apply to specific major arteries: I-595, I-95, I-75, and the Florida Turnpike with an alternate version including SR 84.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion passed 3-2)

Ordinances - First Reading (Second and Final Reading to be held November 5, 2008)

- 6.3 **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION APPLICATION VA 11-1-06 “OAK HOLLOW” VACATING PORTIONS OF RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 11-1-06, Oak Hollow, 3700 SW 136 Avenue) (tabled from October 1, 2008)

This item was tabled earlier in the meeting.

- 6.4 **ADOPTION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR ADOPTION TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA(TXT) 9-1-08, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY UPDATING THE CAPITAL IMPROVEMENTS ELEMENT WITH THE ADOPTED 5-YEAR CAPITAL PROJECTS PROGRAM FOR FY 2008-2012 PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR FILING WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICT;

PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Rayson read the ordinance by title. Mayor Truex announced a public hearing on the ordinance would be held at the November 5, 2008 meeting.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Quasi Judicial Item

- 6.5 **VARIANCE** - V 5-2-08, Davie Manor Townhomes, 6482 Palm Garden Court (RM-10) (to reduce the required landscape buffer abutting a collector street for lots 14 through 21 from 20 feet to 12 feet and to reduce the required landscape buffer abutting a street for lots 7 through 13 from 10 feet to 8 feet) (tabled from October 1, 2008) *Planning and Zoning Board recommended approval subject to the restriction that it be an elevated wooden deck which would not obstruct the existing drainage system*

Earlier in the meeting, Mr. Rayson swore in witnesses. Mr. Quigley summarized the planning report. He confirmed that some of the decks had been built without permits; however, this request would allow residents to obtain after-the-fact permits to comply their properties.

Councilmember Crowley stated that he lived in this community, but did not own the unit in which his family lived, so there was no conflict. Mr. Rayson agreed.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis to approve subject to staff's recommendation that the two trees be replaced and the Planning and Zoning Board's recommendation that the decks be elevated to prevent obstruction of the existing drainage system. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Item to be tabled

- 6.6 **PETITIONER REQUESTING A TABLING TO DECEMBER 3, 2008**
REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 11-1-07, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY

THEREWITH; PROVIDING FOR SEVERABILITY; AND
PROVIDING FOR AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

7. APPOINTMENTS

7.1 Mayor Truex

7.1.1 Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2010) (members shall be a minimum 60 years of age)

No appointment was made.

7.1.2 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2 Vice-Mayor Luis

7.2.1 Open Space Advisory Committee Agency (one exclusive - term expires April 2010)

No appointment was made.

7.3 Councilmember Crowley

7.3.1 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

Councilmember Crowley advised that he had provided Town Clerk Muniz with an appointment prior to the meeting [Walter Sajdak].

Mayor Truex asked the status of the Mobile Home Task Force. Town Clerk Muniz reported that the Task Force had a full complement and Housing and Community Development Department had been given direction to begin holding meetings. He agreed to report back to Council regarding the Committee's meetings and members.

7.4 Councilmember Starkey

7.4.1 Open Space Advisory Committee Agency (one exclusive appointment- term expires April 2010)

No appointment was made.

7.4.2 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law

enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

- 7.5 Unsafe Structures Board (one non-exclusive appointment; term expires April 2009) (appointment shall be a plumbing contractor - member shall be a permanent resident or have their principal place of business within the Town's jurisdiction)

No appointment was made.

- 7.6 National League of Cities (Voting Delegate and Alternate)

Councilmember Crowley made a motion, seconded by Mayor Truex, to appoint Councilmember Starkey as Delegate and Vice-Mayor Luis as Alternate.

Councilmember Starkey stated that she could not attend the conference and respectfully declined the appointment. Councilmember Crowley indicated that his motion remained as plans may change. Vice-Mayor Luis advised that he was unable to attend. Councilmember Caletka suggested that he be made a second alternate as he might be able to attend. Councilmember Crowley amended his motion to add Councilmember Caletka as Second Alternate. Mayor Truex seconded the amendment.

In a voice vote, all voted in favor. (Motion carried 5-0)

8. OLD BUSINESS

- 8.1 Charter Changes - Summary & Ballot Question

Mr. Ackerman advised that staff was suggesting increasing the \$1,000 departmental fund transfer limit to \$10,000. Mayor Truex remembered Council had already discussed this and rejected it, and wondered why staff had brought it up again. Mr. Shimun explained that Councilmember Caletka had brought up the issue again. Mr. Ackerman said this would provide staff greater flexibility and reduce requests to Council.

Councilmember Crowley made a motion to approve. Mr. Shimun advised that the budget would not change.

Mayor Truex asked if it would be possible for one department to transfer \$10,000 twice. Mr. Ackerman responded in the negative unless it wasn't caught. Mayor Truex still opposed this amendment, noting that oversight of revenue was one of Council's responsibilities.

Councilmember Starkey referred to past financial problems the Town had faced and pointed out that the \$1,000 limit had been suggested by auditors.

Councilmember Caletka explained that under the current rule, any funds left in the accounts at the end of the year would be put into reserves and he felt this was over taxation to residents. He believed changing the transfer limit would allow for a more realistic budget because "over-inflated" items were included in anticipation of something going wrong. Increasing the limit would also reduce the number of requests made to Council.

Vice-Mayor Luis felt \$1,000 was too little for a manager to work with, noting that they conducted forensic audits and "we have people here to catch things; this isn't where you need to be looking to catch it."

Councilmember Starkey believed that this was Council's fiduciary responsibility and the taxpayers wanted it in the Charter. She felt this would create a loophole.

Mr. Ackerman explained that currently, transfers were accomplished by resolution with one reading. He pointed out that the \$1,000 limit was lower than all other municipalities in the County.

Vice-Mayor Luis suggested lowering the requested limit to \$5,000

Councilmember Caletka seconded Councilmember Crowley's motion to approve.

Mayor Truex suggested a \$5,000 limit, not to exceed \$20,000 in the aggregate.

Councilmember Crowley clarified that his motion was to add the amendment presented by Mr. Ackerman to the Charter revision package.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - no. (Motion carried 3-2)

Councilmember Crowley made a motion, seconded by Councilmember Caletka to approve the Charter revision package. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 5-0)

8.2 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT WITH COST RECOVERY CORPORATION (CRC), TO PROVIDE ACCIDENT COST RECOVERY SERVICES. (tabled from October 1, 2008) [see related item 6.2]**

Councilmember Starkey made a motion, seconded by Mayor Truex, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

8.3 **Green Route Community Bus**

Program Manager Susan Dean stated that staff had developed three scenarios that could keep one Green Route bus running. She described the scenarios and explained that all scenarios were acceptable to the County.

Councilmember Starkey preferred the third scenario because it kept both routes running and kept Saturday service.

Ms. Dean referred to a survey that indicated many people used the Green Bus for transportation to and from work and therefore, needed the morning and afternoon schedules.

Mark Levitt, representing Limos of South Florida, explained that the cost to run one additional bus was \$70,896 and the cost to run two buses would be an additional \$131,654. Ms. Dean said the Town had already budgeted approximately \$96,000.

Councilmember Caletka felt there would be an opportunity to recover some of the costs through grants. He believed that ridership would seriously decrease if they inconvenienced riders by not offering two buses.

Mayor Truex agreed that Council should consider the third scenario and wanted to address the Everglades senior community issue separately. He suggested the schedule could be changed to include runs to Everglades one day per week. Council discussed options for adjusting the schedule with Ms. Dean.

Councilmember Starkey made a motion, seconded by Mayor Truex, to accept option three with a Saturday trip to Everglades. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-1)

Ms. Dean agreed to bring the agreement with the County to Council's next meeting to iron out the details.

9. NEW BUSINESS

No comments were made.

10. SCHEDULE OF NEXT MEETING

11. MAYOR/COUNCILMEMBER'S COMMENTS

MAYOR TRUEX

PALMA NOVA. Mayor Truex reported he and Mr. Shimun had met with School Board representatives and Austin Forman and the main issue had been how long residents would be permitted to stay. Mr. Forman had agreed that only residents with a child in a Broward County public school would be permitted to stay in the park until the school year ended. He also wanted assurance that the permit review process through the Town would proceed in a timely manner.

Mr. Shimun advised that the School District had indicated students who moved out of the park could continue to attend their schools, as long as the school was not required to provide transportation.

Councilmember Starkey took issue with Mr. Forman's attorney's wording regarding the permit review process: "...an expedited review of all requests for development permits, etc." She pointed out the Town already had an expedited permit process that required an additional fee and she would not grant "an additional exception or favor to somebody who's going to wreak havoc on this community right now."

Vice-Mayor Luis stated that Mr. Forman was making a financial concession and the Town should meet him half way. Councilmember Caletka agreed this was a generous concession and the displacement of students had been one of his most serious concerns.

Mayor Truex said that the Town would respond appropriately to any security issues at Palma Nova. Police Chief Patrick Lynn reported that there were increased patrols in the area already and they were prepared to address issues as they arose.

COUNCILMEMBER CALETKA

POTTER'S PARK. Councilmember Caletka requested a copy of the contract regarding the program that Memorial ran at Potter's Park.

COUNCILMEMBER CROWLEY

COUNCILMEMBER CALETKA'S VOTING STATUS QUESTION.

Councilmember Crowley stated that he had asked Mr. Rayson to investigate whether Councilmember Caletka could vote on his own reappointment to Council. Mr. Rayson responded that he had received an opinion from the Attorney General, but had been informed that the jurisdiction in this matter rested with the Florida Commission on

Ethics. The Florida Commission on Ethics had so far issued a proposed opinion and the Commission was scheduled to meet on October 17th. He agreed to advise Council of the Committee's opinion as soon as it was available. Councilmember Starkey asked Mr. Rayson to provide Council with a copy of the question he had sent to the Attorney General.

COUNCILMEMBER CROWLEY

SELECTION OF DISTRICT 1 COUNCILMEMBER. Councilmember Crowley requested that the selection of the District 1 Councilmember be placed on Council's next agenda.

COUNCILMEMBER STARKEY

HAPPY BIRTHDAY. Councilmember Starkey wished her son a happy 30th birthday.

VICE-MAYOR LUIS

SHENANDOAH FALL FESTIVAL. Vice-Mayor Luis invited everyone to Shenandoah Park on October 18th for the Shenandoah Fall Festival.

12. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

13. TOWN ATTORNEY'S COMMENTS

SPECIAL EXECUTIVE SESSION. Mr. Rayson requested an executive session to seek Council's advice regarding the Wal-Mart case.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 10:25 p.m.

Approved _____

Mayor/Councilmember

Town Clerk